

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 15

SANTIS CONSTRUCTION INC.

Employer

and

Case No. 15-RC-8471

LOUISIANA/MISSISSIPPI CARPENTERS
REGIONAL COUNCIL and CARPENTERS
AND PILEDRIVERS LOCAL 1846

Petitioner

**REPORT ON OBJECTIONS, ORDER
DIRECTING HEARING AND NOTICE OF HEARING**

Procedural History

On July 2, 2003,¹ the Petitioner filed a petition under Section 9(c) of the Act seeking an election among certain employees of the Employer. On July 21 the then Acting Regional Director of Region 15 of the National Labor Relations Board approved a Stipulated Election Agreement.² The agreement provided that an election would be held on August 21 at the jobsite of a hotel was under construction in New Orleans, Louisiana.³ However, because the general contractor of the project refused to grant the Board access

¹ Unless otherwise noted, all dates are in 2003.

² The collective bargaining unit set forth in paragraph 13 of the Stipulated Election Agreement is as follows:

All employees employed as carpenters, including foremen, general foremen who do carpentry work including but not limited to metal studs, drywall, acoustical ceilings, lathers and maintenance employed in the States of Louisiana and Mississippi excluding all other employees, office clerical employees, professional employees, floor installers, guards and supervisors as defined by the Act.

to the site in order to conduct the polling, the election was cancelled. Accordingly, the parties entered into another Stipulated Election Agreement that was approved by the then Acting Regional Director on August 22. On September 10, pursuant to that agreement, an election was held among certain employees of the Employer to determine whether they wished to be represented by the Petitioner.

The tally of ballots served upon the parties immediately following the ballot count disclosed the following results:

Approximate number of eligible voters	37
Number of Void ballots	0
Number of votes cast for Petitioner	2
Number of votes cast against participating labor organization	28
Number of valid votes counted	30
Number of challenged ballots	5
Number of valid votes counted plus challenged ballots	33

Challenges are not sufficient in number to affect the results of the election.
A majority of the valid votes counted plus challenged ballots has not been cast for Petitioner.

Thereafter, on September 17 the Petitioner timely filed objections to the election. The objections are appended as "Attachment A".

A preliminary investigation of the Petitioner's objections has been conducted. Based upon careful consideration of the results I find that they raise substantial and material issues that would best be resolved by a hearing. I am therefore directing that a hearing be held for the purpose of taking testimony to resolve the issues raised in the Petitioner's objections. What follows is a brief description of these objections and the Petitioner's contentions.

³ The election was to be held in the employee break area of the Stay Bridge Suites Hotel, located on the corner of

The Petitioner's Objections

Objection No. 1

In this objection, the Petitioner contends that the Employer interfered with the election by supplying an inadequate *Excelsior* list.⁴ The Petitioner asserts it can present witnesses who will testify that many eligible employees were omitted from the list. It maintains that its witnesses will also testify that many of the addresses on the Excelsior list were incorrect.

Objection No. 2

In this objection, the Petitioner asserts that the Employer failed to post Notices of Elections at its job sites as required by the Board's rules. It maintains that it can furnish witnesses who will testify that Notices were not posted at the Employer's sites.

A preliminary review of the evidence shows that in late August the Employer's counsel expressed the concern that the general contractor at the project on which the Employer's employees were working might not allow the Employer to post election notices at its jobsite. In response, the Region mailed notices to the employees on the Excelsior list and informed the parties by letter dated August 29 that it had done so. In its letter the Region reminded the Employer that the mailing of the election notices did not relieve the Employer of its obligation to post them. A copy of this letter is appended as "Attachment B".

Poydras Street and Tchoupitoulas Street

⁴ *Excelsior Underwear*, 156 NLRB 1236 (1966).

ORDER DIRECTING HEARING

IT IS HEREBY ORDERED that a hearing be held for the purpose of taking testimony to resolve issues raised by the Petitioner's objections.

IT IS FURTHER ORDERED that the hearing officer will prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of these issues. Within 14 days from the issuance of such report, any party may file with the Board in Washington, DC, exceptions and supporting briefs in accordance with Section 102.69 of the Board's Rules and Regulations, Series 8, as amended. A party may thereafter file an answering brief as provided in said Section. If no exceptions are filed to such report, the Board may decide the matter forthwith upon the record or make other disposition of the case.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, on the 16th day of October 2003, and on consecutive days thereafter until concluded, commencing at 9:30 o'clock a.m. (CDT), at the National Labor Relations Board, Hearing Room A, Room 649, 1515 Poydras Street, New Orleans, Louisiana, a hearing will be conducted before a duly designated hearing officer of the National Labor Relations Board for the purpose of taking testimony on the issues

raised by the Petitioner's objections at which time and place the parties will have the right to appear in person, or otherwise, and give testimony.

Dated at New Orleans, Louisiana, this 3rd day of October 2003.

Rodney D. Johnson, Acting Regional Director
National Labor Relations Board, Region 15
1515 Poydras Street, Suite 610
New Orleans, Louisiana 70112-3723

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